

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/788,533	MAJOR, HARRY RICHMOND	
	Examiner	Art Unit	
	Fred A. Casca	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS**. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to June 26, 2006.
2.  The allowed claim(s) is/are 1,3 and 6-26.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_.
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments, filed on June 26, 2006, with respect to claims 1, 3, and 6-22 have been considered and are persuasive. The new limitations to independent claims 1, 12, and 18 have not been found or suggested by prior art. The rejection of claims 1, 3, and 6-22 has been withdrawn.

***Allowable Subject Matter***

Claims 1, 3, 6-26 are allowed. The following is the examiner's statement of reasons for allowance:

References Hind et al (U.S. Pub. No. 2005/0037755 A1), Deeds (U.S. Pub. No. 2004/0203610 A1), and Miramontes (US Pub. No. 2004/0147278 A1) are made of record as disclosing the art of facilitating the delivery of e-mail messages from a mobile communication device. However, none of the cited prior art discloses, teaches or suggests directly or indirectly "if the packet data service is identified as being made available in the wireless communication network, causing, by the mobile communication device, the e-mail message information to be send via service of the wireless communication network" and "if the packet data service is identified as being made unavailable in the wireless communication network: formatting, by the mobile communication device, the e-mail message information in an SMS-to-Email message format compatible with an SMS-to-Email service" in combination with other elements of the claims.

***Conclusion***

Any response to this Office Action should be mailed to:

U.S Patent and Trademark Office  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or Faxed to:

571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid, can be reached at (571) 272-7922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER